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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,569	03/29/2004	William J. Pulte	1297A-115	1378
25215 7590 01/23/2008 DOBRUSIN & THENNISCH PC 29 W LAWRENCE ST SUITE-210 PONTIAC, MI 48342			EXAMINER FIGUEROA, ADRIANA	
			ART UNIT 3633	PAPER NUMBER
			MAIL DATE 01/23/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/811,569	PULTE, WILLIAM J.	
	Examiner	Art Unit	
	Adriana Figueroa	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21,23,25-27 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,23,25-27 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21, 23, 25-27, 29-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 in lines 5-14 recites the limitations: a first surface having a first edge and a second edge; a second surface having a first edge, a second edge and, at least one stepped arcuate surface intersecting said first surface and said second surface at said second edge of said first surface and said first edge of said second surface; an arcuate surface that intersects said first edge of said first surface and is orthogonal thereto thereby defining an arcuate junction; a backside of the first surface and second surface demarked by a series of radially extending lines and a series of tangentially

extending lines, said radially extending lines and said tangential extending lines numerically marked to correspond to a roof pitch of a home to which said assembly shall be attached.

It is unclear if these limitations are referring to the rake boards or to another element.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21, 23, 25-27, 29-35 rejected under 35 U.S.C. 103(a) as being unpatentable over LeBlanc (US 6,216,407) in view of Blubaugh (US 6,269,595).

Regarding claim 21, LeBlanc discloses an assembly having two angularly disposed opposing rake boards(400, 500), each including a stepped surface structure (401, 501), which define a gap (g) therebetween at a junction;
a first surface (f) having a first edge (a) and a second edge (b);
a second surface(s) having a first edge (c), a second edge (d) and,
at least one stepped arcuate surface (q) intersecting said first surface and said second surface at said second edge of said first surface and said first edge of said second surface;

an arcuate surface (p) that intersects said first edge (a) of said first surface (f) and is orthogonal thereto thereby defining an arcuate junction, (annotated Figure 9).

wherein the first surface (f) and second surface (s) form a cap (K) which includes one or more stepped arcuate surfaces (q),

wherein the stepped arcuate surfaces (q) are adapted to correspond with an equal number of stepped surfaces of adjoining rake members (400, 500), (annotated Figure 9). The phrase "for secure attachment and for defining a joint that is part of a gable roof assembly" is considered intended use and is given no patentable weight.

wherein the assembly is capable of being formed of materials suitable in appearance and durability for the exterior fascia of a home, (Column 4, Lines 66-67, Column 5, Lines 1-3).

LeBlanc modified by Blubaugh does not disclose a backside of the first surface and second surface demarked by a series of radially extending lines and a series of tangentially extending lines, said radially extending lines and said tangential extending lines numerically marked to correspond to a roof pitch of a home to which said assembly shall be attached. However, Blubaugh teaches a panel (2) having a back side surface including indicia, (Figures 3, 4), (Column 1, Lines 30-34, Column 2, Lines 23-25). Therefore, at the time the invention was made, it would have been obvious to have the backside of the first surface and second surface demarked by a series of lines and it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the series of lines extending radially and tangentially, said radially extending lines and said tangential extending lines capable of being numerically marked

to correspond to a roof pitch of a home to which said assembly shall be attached in order to facilitate cutting of the elements to fit at its final location.

the cap of LeBlanc modified by Blubaugh is capable of being cut along the tangentially extending lines and the radially extending lines that correspond to the pitch of the rake members, said cap covering the entire junction of the rake members (400, 500), wherein said conceals any gap (g) between the rake members, (Figure 9).

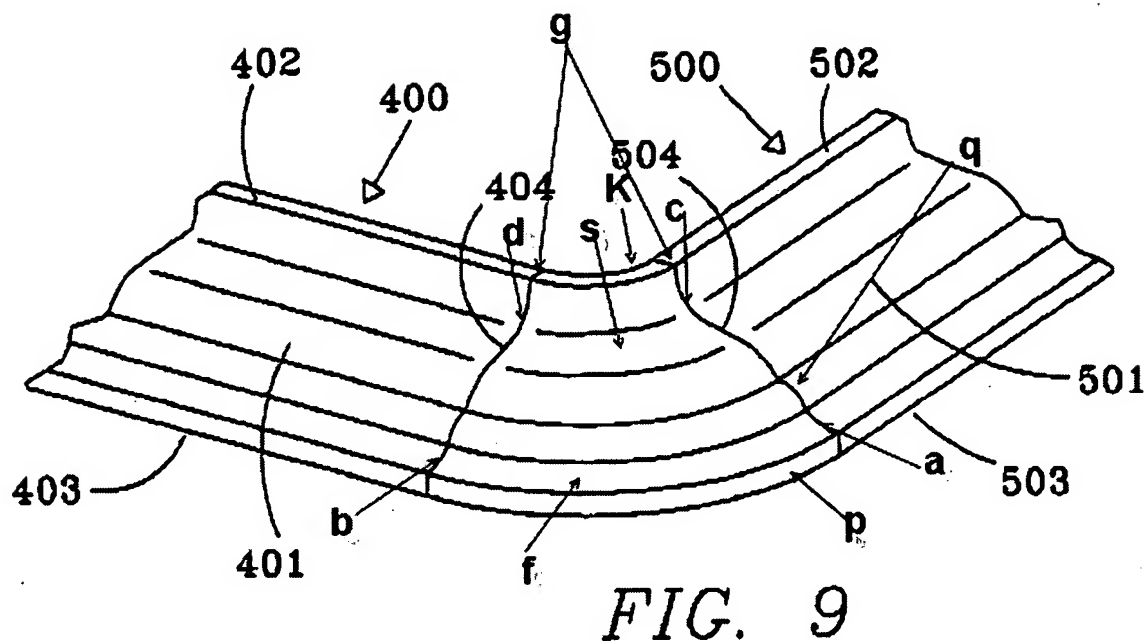
Regarding claim 23, the cap of LeBlanc modified by Blubaugh is capable of being adjoin to a soffit.

Regarding claims 25 and 30, LeBlanc discloses the stepped arcuate surface (q) corresponds with an arcuate surface (401, 501) defined by the rake members, (annotated Figure 9).

Regarding claims 26 and 31, the cap of LeBlanc modified by Blubaugh is capable of being part of a gable roof assembly.

Regarding claim 27, LeBlanc discloses said rake members (400, 500) have a stepped thin-walled cross-sectional profile, (Figure 9).

Regarding claims 29, 32-35, LeBlanc discloses the rake board stepped arcuate surface (401, 501) is a unitary structure.



Response to Arguments

4. Applicant's arguments with respect to claims 21-28 have been considered but are moot in view of the new ground(s) of rejection.

The examiner recognizes the applicant's attempt to overcome the rejections under the prior art of record. However, the amendments are not sufficient to clearly define the rake-ridge cap assembly due to the broad claim language, functional language and structural limitations.

Conclusion

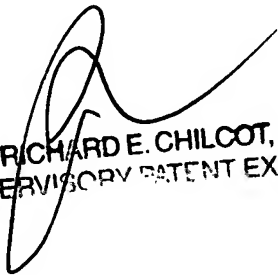
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hickman (US 4,909,006), Day (US 2002/0166299) teach an assembly having two rake members, a gap therebetween and a cap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AF/
12/17/2007


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER